

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

EDWARD J. KOELLER,
individually and on behalf of
all others similarly situated,

Plaintiff,

VS.

RISK BASED SECURITY, INC.

Defendant.

$$\begin{array}{c}) \\) \\) \\) \\) \\) \\) \\) \\) \\) \end{array}$$

Case No. 4:21-cv-540

Removed from the Circuit Court for the
Twenty-First Judicial Circuit
County of St. Louis, State of Missouri
Case No. 21SL-CC01445

JURY TRIAL DEMANDED

NOTICE OF REMOVAL

COMES NOW Defendant Risk Based Security, Inc. and hereby gives notice of the removal of this action from the Circuit Court of the County of St. Louis, State of Missouri, to the United States District Court for the Eastern District of Missouri, pursuant to 28 U.S.C. § 1441.

1. On March 31, 2021, Plaintiff filed this putative class action in the Circuit Court of the County of St. Louis, State of Missouri, where it is denominated Case No. 21SL-CC01445.

2. Pursuant to 28 U.S.C § 1446(a), a true and correct copy of the state court case file is attached hereto as **Exhibit 1** and incorporated herein by reference. Exhibit 1 includes all process, pleadings, motions, and orders filed in this case.

3. Defendant was served with the Petition and Summons on April 8, 2021.

4. This Notice of Removal was timely filed. See 28 U.S.C. § 1446(b)(2) (stating that each defendant has 30 days after receipt by or service on that defendant of the initial pleading or summons to file a notice of removal).

5. Neither the defendant, nor its attorneys, have entered an appearance, filed any responsive pleadings, or filed any papers responding to the Petition in the state court.

6. This Notice of Removal is being filed in the United States District Court for the district in which the action is currently pending pursuant to 28 U.S.C. § 1441(a).

7. This action may be removed to this Court because federal question jurisdiction exists over this dispute pursuant to 28 U.S.C. § 1331.

8. Plaintiff alleges violations of the federal Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227, and the regulations promulgated thereunder. The United States Supreme Court has unanimously held that federal courts have federal question jurisdiction over private TCPA suits. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740 (2012). Therefore, this action is one over which this Court has original jurisdiction under § 1331 and is one which may be removed pursuant to 28 U.S.C. § 1441.

9. Pursuant to 28 U.S.C. § 1367(a), the Court has supplemental jurisdiction over Plaintiff’s claim alleged under the Missouri Telemarketing No-Call List Law, Mo. Rev. Stat. §§ 407.1095 *et seq.*, because it arises from the same facts and is so related to the federal claims in this action that it forms a part of the same case or controversy under Article III of the United States Constitution.

10. Defendants will promptly give written notice of the filing of this Notice of Removal to all parties, and a copy of this Notice will be filed with the Clerk of the Circuit Court as required by 28 U.S.C. § 1446(d).

11. There are no other defendants named in this civil action; therefore, no further consents are necessary to the removal of this action.

WHEREFORE, Defendant Risk Based Security, Inc. hereby removes this proceeding from the Circuit Court of the County of St. Louis, State of Missouri, to this Court pursuant to 28 U.S.C. §§ 1331, 1441, 1446 and 1367, and requests that this Court take jurisdiction of this civil action to the exclusion of any further proceedings in state court.

Respectfully submitted,

Dated: May 7, 2021

GREENSFELDER, HEMKER & GALE, P.C.

By /s/ Mary Ann L. Wymore
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Attorneys for Defendant Risk Based Security, Inc.

CERTIFICATE OF SERVICE

The undersigned certifies that on this 7th day of May 2021, the foregoing document was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system and via United State Mail, with first-class postage thereon prepaid, upon all counsel of record:

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